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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,971	01/08/2004	David A. Miceli	N1040-ICW	6447
23456	7590	11/08/2005	EXAMINER	
WADDEY & PATTERSON 1600 DIVISION STREET, SUITE 500 NASHVILLE, TN 37203			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/753,971	<b>Applicant(s)</b> MICELI ET AL.	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☒ Claim(s) 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 25 is objected to because of the following informalities: claim 25, lines 11-14, all occurrences of "a closure cap" should be -- the closure cap --. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Quinard. (4,271,974). Quinard discloses, in figs. 1 and 4, a container 3 comprising a helical thread 20, a flange 7 having at least one laterally displaceable tab 11; a cap having a sidewall including at least one notch 6 at a distal free end of the sidewall; said tab snaps into said notch and prevent any further rotational movement in a closing direction of said cap relative to said container.
4. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Petro. (4,913,299). Petro discloses, in figs. 1 and 3, a container 12 comprising a helical thread 20, a flange 18 having at least one laterally displaceable tab 20; a cap having a sidewall including at least one notch 38 at a distal free end of the sidewall; said tab snaps into said notch and prevent any further rotational movement in a closing direction of said cap relative to said container.

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5. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Minh (5,148,913). Minh discloses, in fig. 1, a cap comprising top wall having a series of angular abutments 42 on an underside of the top wall; at least two tabs 31 on the inner surface of the cap sidewall, said tabs designed, shaped and positioned to engaged a groove 33 in a closure cap 10; and the tabs shaped to pass through a channel 13 in the closure cap when on of the tabs is aligned with the channel.

6. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Porcelli et al. (3,797,688). Porcelli discloses, in fig. 3, a cap 16 comprising top wall having a series of angular abutments 50 on an underside of the top wall; at least two tabs 54 on the inner surface of the cap sidewall, said tabs designed, shaped and positioned to engaged a groove 13 in a closure cap 10; and the tabs shaped to pass through a channel 38 in the closure cap when on of the tabs is aligned with the channel.

***Allowable Subject Matter***

7. Claims 1-23 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to claims 24 and 25 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL MAR can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

November 1, 2005

